

Serial No.: 10/050,492  
Amendment and Response

### REMARKS

Claims 4, 5 8-12 and 14-41 are currently pending. Of these claims, the Office Action indicates that Claims 4, 5, 8-12 and 14-27 are allowed. Claims 28, 29, 35 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaestner (GB 1428920). Claims 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaestner further in view of Romans. Claims 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaestner in view of Romans and further in view of deVries.

#### 1. The Rejection of Claims 28-34

Claim 28 has been amended to become dependent upon allowed Claim 21. Claims 29-34 are cancelled as being an unnecessary duplication of Claims 22-27 in view of this amendment. Accordingly, Applicants submit that the rejection of these claims is now traversed.

#### 2. The Rejection of Claims 35-41

Applicants respectfully request reconsideration of the rejection of these claims. First, with respect to the rejection of Claims 35 and 36 as being anticipated by Kaestner, Applicants note that Claim 35 defines a control stream to which a chlorination agent is introduced, which control stream is pressurized. The Office Action does not address whether Kaestner teaches or suggests such a pressurized control stream. Applicants respectfully submit that such a pressurized control stream is not taught or suggested by Kaestner. Accordingly, Kaestner cannot anticipate Claims 35 and 36.

Claims 35-41 also stand rejected as being obvious over Kaestner in view of Romans and further in view of DeVries. In connection with this rejection, the Office Action notes that these "claims appear to differ from the reference [Kaestner] in the suggestion of using a pressurized spray to control pathogens during livestock slaughter" and that deVries "teaches that it is preferred to use high velocity jets of spray to improve the sanitation of the meat surface". Applicants respectfully submit that this comment misinterprets the pressurized control stream of Claim 35 and its purpose. The purpose of Applicants' pressurized control stream is not for spraying livestock slaughter with a pressurized spray. On the contrary, the purpose of Applicants' pressurized control stream is to control the hypochlorous acid solution, and in particular control the amount of hypochlorous acid formed in the control stream. This is neither taught nor suggested by any of the three cited references.

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### **3. The Finality of the Office Action**

Applicants respectfully request reconsideration of the making of this Office Action Final. The action comments that "Applicant's amendment necessitated the new grounds of rejection presented in this Office Action." Applicants respectfully dispute this statement. Independent Claims 28 and 35 which were newly added by Applicants' First Amendment and Response filed on 31 December 2002 (Paper No. 3) are original Claims 8 and 10 merely rewritten in independent form. More particularly, as noted in the Remarks therein, Claim 28 is a combination of originally filed Claims 5 and 8, and Claim 35 is a combination of originally filed Claims 5 and 10. Moreover, the Office Action mailed September 26, 2002 (Paper No. 2) stated at Page 2 that "Claims 7-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." (emphasis added) Accordingly, merely presenting Claims 8 and 10 rewritten in independent form in response to this objection necessitated no new grounds of rejection.

### **4. Miscellaneous Amendments and Comments**

Applicants have amended Claims 5 and 35 to change the term "disinfectant" to "pathogen reducing agent". Applicants submit that this amendment is non-substantive in connection with the rejections presented. The purpose of this amendment is to avoid the semantic issue as to whether hypochlorous acid constitutes a "disinfectant". Claims 23-25 and 27 have been amended to change the term "system" to the term "method" to conform to independent Claim 21 from which they depend. Claim 21 is amended to correct the antecedent basis of the "target element" in subpart (d). Claim 26 has been cancelled as being an inadvertent duplication of Claim 24. Claim 28 has been amended to be dependent upon Claim 21. Independent Claim 28 as submitted with Applicants' First Amendment and Response filed 31 December 2002 is considered unnecessary in view of the scope of allowed Claims 5, 15 and 21. Claim 35 is amended to clarify the inference in its preamble that the target element is contacted with the hypochlorous acid stream. Claims 42-45 are newly added to specify the target element can be a food item; support for these claims can be found, for example, in the specification at page 2, lines 17-23 and at page 9, lines 6-8.

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### CONCLUSION

In light of the foregoing amendment and remarks, Applicants submit that all pending claims are now in condition for allowance. The Examiner is invited to call the undersigned at 770-933-9500 should the Examiner have any questions concerning the amendments and remarks presented herewith.

Respectfully submitted,

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